

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 2:12-cr-00080-02

KAWAN MICHAEL WELLS,

Defendant.

REVOCATION OF PROBATION AND JUDGMENT ORDER

On March 13, 2017, the Defendant, Kawan Michael Wells, appeared in person and by counsel, Wesley P. Page, for a hearing on the *Petition for Warrant or Summons for Offender Under Supervision* submitted by the Defendant's supervising probation officer. The United States was represented at the hearing by Joshua C. Hanks, Assistant United States Attorney. United States Probation Officer Steven Phillips was also present at the hearing.

On December 18, 2012, the Defendant was sentenced to a term of 5-years' probation. The Defendant began serving the term of probation on that date. On January 14, 2016, the *Petition for Warrant or Summons for Offender Under Supervision* was filed charging the Defendant with violating certain conditions of probation.

At the hearing, the Court found that the Defendant had received written notice of the alleged violations as contained in the *Petition*, and that the evidence against the Defendant had been disclosed. The Court further found that the Defendant appeared, was given the opportunity to present evidence, and was represented in the proceeding by counsel.

The Court then found, by a preponderance of the evidence, that the Defendant violated

certain conditions of probation as contained in the *Petition*, specifically:

| Violation Number | Nature of Noncompliance |
|------------------|-------------------------|
|------------------|-------------------------|

| | |
|----|---|
| 1. | <u>Violation of statutory condition: The defendant shall not commit another federal, state or local crime:</u> |
|----|---|

On March 17, 2015, members of the Huntington Violent Crime / Federal Drug Task Force executed a State of West Virginia search warrant at the offender's residence located at 2824 Overlook Drive in Huntington, West Virginia. A search of the residence yielded the discovery of one baggie containing approximately .1 grams of a white powdery substance which field tested positive for cocaine, one baggie containing approximately .7 grams of a tan, chunky substance which field tested positive for cocaine, one small baggie containing an unspecified amount of a white powdery substance, suspected marijuana seeds, two sets of digital scales, a small press, fifty rounds of .45 caliber ammunition, forty rounds of .22 caliber ammunition, and \$816.00 in U.S. currency. The offender was arrested following the discovery of the above items.

Criminal complaints were filed in Cabell County, West Virginia, Magistrate Court, charging the offender with two counts of possession with intent to deliver a controlled substance. He was housed in the Western Regional Jail, in Barboursville, West Virginia, on a \$200,000.00 bond.

On March 26, 2015, the case was transferred to the Cabell County Circuit Court.

On May 21, 2015, an indictment was returned in Cabell County, West Virginia, Circuit Court, charging the offender with one count of conspiracy and two counts of possession with intent to deliver a controlled substance.

On May 27, 2015, the offender was released on a \$30,000.00 bond and placed on home confinement with electronic monitoring.

On November 20, 2015, the offender's home confinement was revoked in Cabell County Circuit Court, due to an alcohol violation. He was housed in the Western Regional Jail pending a disposition in the above-referenced Cabell County Circuit Court case.

On December 18, 2015, the offender pled guilty, in Cabell County Circuit Court, to one count of conspiracy. The remaining

charges were dismissed. He was sentenced to a term of imprisonment for a period of no less than one year nor more than five years.

2. Violation of standard condition number seven: The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician:

On June 9, 2015, during an office contact, the offender admitted smoking marijuana twice during the previous week. He provided a urine specimen which tested positive for marijuana.

On June 22, 2015, the offender provided a urine specimen which tested positive for marijuana.

On July 14, 2015, the offender provided a urine specimen which tested positive for marijuana.

On July 16, 2015, during an office contact, the offender admitted smoking marijuana on two occasions during the previous month. He was subsequently referred for outpatient substance abuse treatment at a local treatment provider.

On August 12, 2015, the offender submitted a urine specimen which tested positive for marijuana.

3. Violation of special condition: The defendant shall participate in a program of testing, counseling, and treatment for drug and alcohol abuse as directed by the probation officer:

The offender was directed to submit to drug testing. The offender failed to appear for mandatory drug tests at a local treatment provider on August 4, August 11, August 27, September 2, and September 11, 2015.

In making these findings, the Court relied upon the information contained in the *Petition*, and the statements of the Defendant that he admits the violations contained in the *Petition*.

Having found the Defendant to be in violation of the conditions of probation, the Court

REVOKED the Defendant's probation and entered judgment as follows:

It is the **JUDGMENT** of the Court that the Defendant be committed to the custody of the Federal Bureau of Prisons for a term of **24 MONTHS**. The defendant shall be given credit for time served as appropriately calculated by the Bureau of Prisons. The Court recommends that the defendant be evaluated for and placed in any and all appropriate substance and/or alcohol abuse treatment programs which may be offered by the Bureau of Prisons including the 500-hour residential drug treatment program. The Court recommends that the Defendant be placed in a facility as near as possible to Huntington, West Virginia.

The Defendant was remanded to the custody of the United States Marshal.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to the Defendant and counsel, the United States Attorney, the United States Probation Office, and the United States Marshal.

ENTER: June 12, 2017



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE